

REMARKS

Claims 1, 6, 10-12 and 14 are now pending in this application. Claims 1, 3-8 and 10-13 are rejected. Claims 6 and 11-13 are objected to. Claims 2-5, 7-9 and 13 are previously cancelled herein. Claims 1, 6 and 10-12 are amended herein to express the invention in alternative wording and to address matters of form unrelated to substantive patentability issues. New claim 14 s added.

Applicants herein traverse and respectfully request reconsideration of the rejection of the claims and objections cited in the above-referenced Office Action.

Applicants acknowledge the Examiner's request for cooperation in correcting any errors discovered in the specification. The specification is amended herein to address these concerns, and to correct noted alleged irregularities, including those discussed below.

The specification, including the disclosure and abstract, is objected to based upon alleged informalities noted in the Office Action, including alleged introduction of new matter. A replacement abstract is provided herein which avoids any issues of new matter being introduced into the disclosure.

The descriptions on page 1, lines 10-24 and the paragraph bridging pages 9-10 has been revised properly. However, the applicant respectfully submits that the descriptions on page 15, second and third full paragraph, page 18, second full

paragraph and the paragraph bridging pages 18-19, which has been already revised properly in reply to the last Final Office Action, are clear.

Regarding the disclosure relating to the method in the Summary of the Invention section, applicants respectfully submit that MPEP 608.01(d) which is based upon 37CFR 1.73, applies to the form of the specification as filed, not as amended during prosecution. Claims directed to a method were included in the originally filed application and later cancelled. As the Examiner is more than likely aware, it is not in general accordance with accepted U.S. patent practice to amend the written description to track a narrowing or cancellation of claims during the course of prosecution. As such, applicants respectfully submit that the description given in the Summary of the Invention is entirely proper, since it is commensurate in scope with the application as filed.

Withdrawal of the objections to the specification is earnestly solicited.

Claims 1, 6 and 10-12 are objected to based upon noted informalities. The claims are amended to address these informalities. Withdrawal of the objection is respectfully requested.

Claims 1, 6 and 10-12 are rejected under 35 U.S.C. § 112, first paragraph, for containing subject matter lacking an adequate written description in the specification. The language found objectionable by the Examiner in claim 1 has been removed. Accordingly, reconsideration of the rejection and allowance of the claims are respectfully requested.

The Examiner includes in the Office Action a paragraph entitled “Claim Language Interpretation.” Applicants respectfully submit that, since the claims in their form as previously examined are further amended herein, these claim language interpretations are rendered moot, and are no longer relevant or applicable to the claims in their presently amended form. Notice to that effect in a subsequent office action is respectfully requested.

Claims 1, 6 and 10-12 are rejected as obvious over SCA ‘PCT 2001/95845 in view of Cammorata et al. (US 2002/000762) and MacDonald (US 5,967,665) under 35 U.S.C. §103(a). The applicants herein respectfully traverse this rejection. For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

Regarding independent claim 1, applicants respectfully submit that none of documents discloses the requirements of “said diaper main body being folded over at a fold so as to define a first diaper body portion on one side of the fold and a second diaper body portion on another side of the fold,” “said fold extending widthwise across the crotch portion,” “said fold defining a fold edge face between said first and second diaper body portions” and “said character being disposed on said fold edge face and extended to both the first diaper body portion and the second diaper body portion.” These positively recited requirements define that a character is disposed on a fold edge face of a fold which extends widthwise across the crotch

portion and is extended to both a first diaper body portion and a second diaper body portion which are formed on both sides of the fold.

In the Office Action, the Examiner alleges that a strip 10 and a symbol 11 of SCA 'PCT '845 correspond to indicia. However, “indicia” have now been limited to a “character” according to the claim amendment. Therefore, the strip 10 of SCA'PCT'84S is excluded by use of the term “character” of the present invention. SCA 'PCT '845 only indicates that the strip 10 is a color, tint or a pattern such as a line, which are not characters (page 5, forth full paragraph and page 6, first full paragraph of SCAWA'845).

While the symbol 11 is shown to be a character in Figs. 1, 3, 4 of SCA 'PCT '845, in Fig. 1 of SCA 'PCT '845, the symbols 11 are not arranged on a folding line. Also, in Fig. 4, the symbol 11 is not disposed on a folding line. In SCA 'PCT '845, it is described that the strip 10 is arranged at a folding line (see page 6, third full paragraph of SCA 'PCA '845), and therefore, it is clearly understood that the symbol 11 is not disposed on the folding line. Further, the folding line of Fig. 4 is not a folding line which extends widthwise across the crotch portion of a pants-type disposable diaper, but a folding line which is formed when the incontinence guard is folded for a package condition.

Applicants note that, indeed, none of documents discloses a pants-type disposable diaper having a fold which extends widthwise across the crotch portion and has a character thereon. Furthermore, none of documents discloses a character

being extended to both of the first diaper main body and the second diaper main body from the fold edge face, In Figs. 1 and 4 of SCA 'PCT '845, the symbol 11 is disposed on only at "the first diaper main body" and not disposed on "the fold" and "the second diaper main body."

In the present invention, since the character is disposed on the first diaper main body and the second diaper main body, as well as to the fold edge face, when the two or more like folded diaper main bodies are stacked on one another in a stack, the character can be easily recognized from both the side and above of the stack. Further, since the character, not merely indicia, is disposed on the diaper main body, a user can easily recognize a size of the diaper main body and/or a front or back side of the diaper main body.

Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Reconsideration of the rejections of claims 1, 6 and 10-12 and their allowance are respectfully requested.

Dependent claim 14 is added and is submitted as patentable over the cited art of record based on the subject matter cited therein in addition to the subject matter of claim 1.

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form
for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
JORDAN AND HAMBURG LLP

By Frank J. Jordan by:
Frank J. Jordan
Reg. No. 20,456
Attorney for Applicants
and,

By James S. Wechsler
Lawrence Wechsler
Reg. No. 36,049
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340